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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,770	10/14/2003	Thomas W. Kampf	02316.1220USD1	6337
23552	7590	09/03/2008	EXAMINER	
MERCHANT & GOULD PC			OMGBA, ESSAMA	
P.O. BOX 2903			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55402-0903			3726	
			MAIL DATE	DELIVERY MODE
			09/03/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/685,770	<b>Applicant(s)</b> KAMPF ET AL.	
	<b>Examiner</b> Essama Omgba	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/27/2008</u> .                                               | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Miranda (US Patent 6,107,575).

Miranda discloses a method of assembling a cable routing system 1 wherein a base element 2 is provided, the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, each linear mating edge having a continuous cross-section along the length of each linear mating edge, and each linear mating edge defining a first mounting structure, a plurality of side elements 3 mounted to the base element along the linear mating edges by attaching second mounting structures formed on the side elements with the first mounting structure of the respective linear mating edge, the first and second mounting structures being connected to couple the side elements to the base elements, the side elements 3 having an upstanding wall portion extending to a vertical height above the planar top surface of the base elements, see figures 1, 2, and 5-7. Official Notice is taken in that such cable routing systems typically include side exits extending transversely relative to the linear mating edges and downspout portions defining a pathway extending from the planar top surface to a location below the planar top surface. Such cable routing systems are also typically formed of a plurality of base and side elements connected to

Art Unit: 3726

each other, the base elements being mounted at a vertical height above a telecommunications bay.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6 are, in the alternative, rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard (US Patent 6,450,458) in view of Miranda.

Bernard discloses a method of assembling a cable routing system 200 wherein a base element 220 is provided, the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, a plurality of side elements 210 mounted to the base element by being integrally formed with the base element, a first plurality of the side elements 210 having an upstanding wall portion extending to a vertical height above the planar top surface of the base elements, a second plurality of the side elements defining side exits extending transversely to the edge of the base element (figs. 10 and 12) and down spout portions (fig. 13) to define a cable pathway extending from the planar top surface to a location below the planar top surface, see figures 1, 6, 10, 12 and 13. Although Bernard does not disclose the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, each linear mating edge having a continuous cross-section along the length of each linear mating edge, and each linear mating edge defining a first mounting structure, a plurality of side elements 3 mounted to the base element along

Art Unit: 3726

the linear mating edges by attaching second mounting structures formed on the side elements with the first mounting structure of the respective linear mating edge, the first and second mounting structures being connected to couple the side elements to the base elements, however such construction of a cable routing system is known as attested by Miranda, see figures 1, 2, and 5-7. Therefore it would have been obvious to form the cable routing system of Bernard from separate elements as taught by Miranda, in order to be able to transport the cable routing system in a flat space-saving condition and to form it, at a site of use, into a U-Shape cable channel by appropriately connecting the base and side elements. The examiner notes that such modification of the method of Bernard would have been obvious to try since it would have amounted to choosing from a finite number of identified, predictable solutions (cable routing systems consisting of two side walls and a bottom wall that are integral or cable routing systems consisting of two side walls and a bottom wall that are separately formed and subsequently attached to each other to form the cable routing system, with a reasonable expectation of success. Applicant should note that the cable routing system of Bernard is formed of a plurality of base and side elements connected to each other. Also such cable routing systems are typically mounted so that the base elements are mounted at a vertical height above a telecommunications bay.

### ***Response to Arguments***

5. Applicant's arguments filed May 27, 2008 have been fully considered but they are not persuasive.

In response to Applicant's request that the examiner provides documentary evidence to support the Official Notice that cable routing systems typically include side exits extending transversely relative to the linear mating edges, the examiner directs Applicant's attention to figures 10 and 12 of Bernard used in the rejections of the instant application.

In response to Applicant's argument that Bernard teaches away from the purported combination with Miranda because Bernard states that "The coupler 100 has an inner wall consisting of two side walls 110 and a bottom wall 120, which are preferably integral and continuous", the examiner respectfully disagrees. The term "preferably" suggests that preference is given to alternative embodiments; therefore the only thing that can be inferred from the cited portion is that Bernard favors an integrally formed routing system over one that is formed of separate elements. Further the examiner has also provided motivation why one would choose the cable system of Miranda over the one taught by Bernard. Regarding the recited structure of the different elements, it has been shown in the above rejections that Miranda discloses such structure.

In view of the above remarks, the examiner maintains that a *prima facie* case of anticipation, or in the alternative, of obviousness has been established in the instant application.

### **Conclusion**

Art Unit: 3726

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3726

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Essama Omgba/  
Primary Examiner, Art Unit 3726

eo  
August 18, 2008